



COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

CERTIFICATION

COLORADO DISCHARGE PERMIT SYSTEM

GENERAL PERMIT

CONCENTRATED ANIMAL FEEDING OPERATIONS

This permit specifically authorizes _____

to discharge from its production area to surface waters as of _____

This permit also authorizes the facility to discharge from land application sites to surface waters when the facility is operated in compliance with the permit conditions set forth herein.

The applicable storm event for the facility is the _____ Storm.

SPECIAL CONDITIONS

1. The facility has an approved spillway exemption for the following impoundment(s):
2. The facility has an approved alternative freeboard elevation for the following impoundment(s):
3. The facility has an approved alternative setback for the following land application field(s):

GENERAL PERMIT FOR CONCENTRATED ANIMAL FEEDING OPERATIONS
AUTHORIZATION TO DISCHARGE UNDER THE
COLORADO DISCHARGE PERMIT SYSTEM

In compliance with the provisions of the Colorado Water Quality Control Act (25-8-101 et seq. C.R.S.), and the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) operators of animal feeding operations and concentrated animal feeding operations that meet the requirements of this permit are authorized to discharge from approved locations throughout the State of Colorado to certain surface waters. Such operators must manage their facilities in accordance with effluent limitations, monitoring requirements, and other provisions set forth herein.

This permit specifically authorizes the animal feeding operation identified in the certification on page one of this permit to discharge from their production area and land application sites to surface waters.

A copy of this permit must be kept by the permittee at the site of the permitted facility.

This permit becomes effective on **January 11, 2017**

This general permit and the authorization to discharge expire at midnight, **January 10, 2022**

Issued this **12th** day of **December 2016**

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

A handwritten signature in blue ink, appearing to read 'Chad M. DeVolin', with a large, stylized flourish extending to the right.

Chad M. DeVolin, Unit Manager
Environmental Agriculture Program
Division of Environmental Health and Sustainability

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PART I - GENERAL INFORMATION

(A) COLORADO CAFO GENERAL PERMIT

A general permit applies to a category of sources that involve the same or substantially similar operations, discharge the same type of wastes, and require the same or similar permit conditions and monitoring provisions. Colorado's general permit is referred to as the Colorado Concentrated Animal Feeding Operation (CAFO) Discharge Permit. This permit provides general and specific conditions that concentrated animal feeding operations certified under the permit must meet in order to comply with federal and state regulations to protect waters of the state of Colorado and waters of the United States.

Facilities interested in coverage under the CAFO Discharge Permit must submit an application and Nutrient Management Plan for review, and must meet design standards, effluent limits and other regulatory requirements in order to receive a certification of coverage.

Please contact the Environmental Agriculture Program at (303) 692-3520, should you have questions about this permit, or about acquiring certification under the permit.

(B) APPLICABILITY

Animal feeding operations that may be covered under this permit include those defined as a Large or Medium Concentrated Animal Feeding Operation (CAFO) that confine as many or more than the number of animals specified in Colorado Water Quality Control Commission Regulation No. 61, the Colorado Discharge Permit System Regulations, 5 CCR 1002-61 (Regulation No. 61), in section 61.2.

The CAFO certification under this permit is only for discharges to waters of the U.S. that occur after permit coverage is granted. Any discharges that occur prior to permit coverage may be subject to enforcement.

Any operator covered under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The operator shall submit an application for an individual permit using a form provided by the division. If a final, individual CAFO permit is issued to an operator otherwise subject to this general permit, the applicability of this general permit to the facility is automatically terminated on the effective date of the individual permit. Otherwise, the applicability of this general permit remains in full force and effect (e.g., an individual CAFO permit is denied to an operator otherwise subject to this general permit).

(C) PERMIT COVERAGE

This permit provides coverage under the National Pollutant Elimination Discharge System regulations promulgated at 40 CFR Part 122 and Effluent Limitations Guidelines and Standards promulgated at 40 C.F.R. Part 412 along with coverage under Regulation No. 61, and the Colorado Water Quality Control Act as amended in sections 25-8-501 to 504, C.R.S.

This permit covers all areas of the State of Colorado, except for CAFOs located on federal and tribally-owned Indian lands. The State of Colorado does not have authority to issue permits for activities on federal and tribally-owned Indian lands. Application for permit coverage for CAFOs located on federal and tribally-owned Indian lands within the State must be made to United States Environmental Protection Agency (EPA) Region VIII.

No condition of this permit shall release the permittee from any responsibility or requirements under other Federal, State, Indian Tribe, or Local statutes or regulations.

The division may require any facility authorized by this permit to apply for, and obtain, an individual CAFO permit. An individual permit may be required where a facility discharges to surface water for which a control regulation limits the quantity or concentration of pollutants in such discharges, where a facility has demonstrated historical or significant noncompliance, or where a discharge is shown to be contributing to an exceedance of the water quality standard(s). The division will notify the operator, in writing, that an application for an individual permit is required within 180 days. Coverage of the facility under this general permit is automatically terminated when: (1) the operator fails to submit the required individual permit application within 180 days; or (2) the individual permit is issued by the division.

(D) PERMIT ELIGIBILITY

- 1) The following facilities are eligible for coverage under this permit, unless specifically excluded in subsection 2) below:
 - (a) New or existing CAFOs, whether a defined or designated CAFO, that meet the provisions of Part I (C) of this permit.
 - (b) Any operation that meets the definition of an animal feeding operation (AFO) in Part IX(C) and the provisions of Part I (C) of this permit and desires to be certified under this permit.
- 2) The following AFOs and CAFOs are not eligible for coverage under this permit and would need to apply for an individual permit:
 - (a) Any AFO or CAFO defined as a housed commercial swine feeding operation under section 61.2 of Regulation No. 61.
 - (b) A CAFO for which a total maximum daily load (TMDL) has been established with a waste load allocation for the CAFO.
 - (c) A CAFO that will discharge to surface water for which there is an applicable control regulation that limits the quantity or concentration of total phosphorus or total nitrogen in the discharge.
 - (d) A CAFO for which the division has established, per the operator's request, alternative Colorado Discharge Permit System CAFO effluent limitations based upon the operation's proposed use of a site-specific alternative technology, in accordance with section 61.17(7) of Regulation No. 61.
 - (e) A Duck CAFO.

(E) WHEN TO APPLY

At any time, an operator of an AFO or CAFO may submit a complete application for coverage under this permit with the understanding that permit coverage is required prior to a discharge to waters of the U.S. A permit application must be submitted at least 180 days prior to the time the operator desires to place animals on the permitted operation.

(F) HOW TO APPLY

If an AFO or CAFO located in Colorado chooses to seek coverage under this general permit, the owner or operator must obtain the current application form and submit a complete permit application, including all appendices to the following address:

Colorado Department of Public Health and Environment
Environmental Agriculture Program
DEHS-A2

4300 Cherry Creek Drive South
Denver, Colorado, 80246-1530

(G) PERMIT APPLICATION

To obtain coverage under this permit, the division's *Application to Be Certified Under a General Permit for Concentrated Animal Feeding Operations* must be submitted to the division along with a complete Nutrient Management Plan (NMP). The permit application must meet the requirements of section 61.17(5)(c) of Regulation No. 61 and must be submitted at least 180 days prior to the time the operator desires to place animals on the permitted facility. An *Application to Be Certified Under a General Permit for Concentrated Animal Feeding Operations* is included as Attachment A.

The application must be signed by the operator or other authorized signatory in accordance with Part I (K) of this permit.

(H) WHEN TO RE-APPLY

This permit will expire five years from the effective date. If the permittee wishes to continue permit coverage, the permittee must re-apply for permit coverage 180 days prior to the expiration date of this permit. If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act, C.R.S. § 24-4-101, et seq., and will remain in force and effect.

Any permittee granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

- 1) Reissuance or replacement of the general permit, at which time the owner/operator must comply with the conditions of the new permit to maintain authorization to discharge;
- 2) Issuance of an individual permit;
- 3) A formal decision by the permitting authority not to reissue this general permit, at which time coverage under an alternative CAFO general permit or individual permit must be obtained; or,
- 4) The permittee requests termination of permit coverage.

(I) TRANSFER OF OWNERSHIP OR CONTROL

Permit coverage may be transferred to a new permittee only upon the completion of the following:

- 1) The current permittee notifies the division in writing 30 days in advance of the proposed transfer date. The notice must include a written agreement between the existing and new permittees containing a specific date for transfer of certification responsibility, coverage and liability between them.
- 2) The division does not notify the existing permittee and the proposed new permittee of its intent to modify, or revoke and reissue, the certification.
- 3) The fee requirements of Part VIII (H) of this permit have been met.

(J) REQUEST FOR PERMIT TERMINATION

- 1) The permittee shall notify the division that the facility is no longer in operation and request that permit coverage for the operation be terminated.

- 2) The permittee shall notify the division if the operator no longer desires coverage under this permit.

(K) SIGNATORY REQUIREMENTS

All reports, applications, and other information required by the division shall be signed and certified for accuracy by the permittee in accordance with the following criteria:

- 1) Authorized Signatory

- (a) In the case of corporations, by a principal executive officer of at least the level of vice-president or his or her duly authorized representative, if such representative is responsible for the overall operation of the facility from which a discharge originates.
- (b) In the case of a partnership, by a general partner.
- (c) In the case of a sole proprietorship, by the proprietor.
- (d) In the case of a municipal, state, or other public facility, by either a principal executive officer, ranking elected officer, or other duly authorized employee.

- 2) Certification Requirement

- (a) The permittee shall make the following certification on all reports and other information required by the division:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(L) INCORPORATED MATERIALS

Materials incorporated by reference in this permit are available for public inspection during regular business hours at the Colorado Department of Public Health and Environment, Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado. The permit incorporates materials as they exist at the date of the final approval of this permit and does not include later amendments to, or editions of, the incorporated materials. All material incorporated by reference may be examined at any state publications depository library.

PART II - EFFLUENT LIMITATIONS

The following effluent limitations apply to facilities covered under this permit:

(A) PRODUCTION AREA

There shall be no discharge of process wastewater or manure to surface waters from the production area except as provided below:

1) Large Horse and Sheep CAFOs (New Source and Existing)

- (a) There shall be no discharge of manure or process wastewater into surface water from the production area except as provided below. Whenever precipitation causes an overflow of manure or process wastewater, pollutants in the overflow may be discharged into surface waters only if the following conditions have been met:
 - i) The production area is properly designed, constructed, operated and maintained to contain all manure and process wastewater, including the runoff and direct precipitation from either the 25-Year, 24-Hour Storm or Chronic Storm, whichever is greater, for the location of the facility. The applicable storm event for the permittee is identified in the certification on page one of this permit.
 - ii) The owner collects, analyzes, and reports the results of process wastewater samples in a manner and at locations as described in Part VI of this permit.
 - iii) During a Chronic Storm, discharge is not authorized where there is an interval between days of precipitation that was sufficient to allow process wastewater in the impoundment(s) and tanks to be transferred to another available impoundment or tank, or land applied in accordance with the conditions of this general permit.
- (b) There shall be no additional effluent limitations on discharges resulting from such overflows.

2) Large Dairy Cow and Cattle CAFOs (New Source and Existing)

- (a) There shall be no discharge of manure or process wastewater into surface water from the production area except as provided below. Whenever precipitation causes an overflow of manure or process wastewater, pollutants in the overflow may be discharged into surface waters only if the following conditions have been met:
 - i) The production area is properly designed, constructed, operated and maintained to contain all manure and process wastewater, including the runoff and direct precipitation from either the 25-Year, 24-Hour Storm or Chronic Storm, whichever is greater, for the location of the facility. The applicable storm event for the permittee is identified in the certification on page one of this permit.
 - ii) The production area is operated in accordance with the best management practices required in Part IV (B), and the recordkeeping requirements in Part V of this permit.
 - iii) The owner collects, analyzes, and reports the results of process wastewater samples in a manner and at locations as described in Part VI of this permit.
 - iv) During a Chronic Storm, discharge is not authorized where there is an interval between days of precipitation that was sufficient to allow process wastewater in the impoundment(s) and tanks to be transferred to another available impoundment or tank, or land applied in accordance with the conditions of this general permit.
- (b) There shall be no additional effluent limitations on discharges resulting from such overflows.

3) Large Swine, Poultry, and Veal Calf CAFOs (Existing Source Only)

- (a) There shall be no discharge of manure or process wastewater into surface water from the production area except as provided below. Whenever precipitation causes an overflow of manure or process wastewater, pollutants in the overflow may be discharged into surface waters only if the following conditions have been met:
 - i) The production area is properly designed, constructed, operated and maintained to contain all manure and process wastewater, including the runoff and direct precipitation from either the 25-Year, 24-Hour Storm or Chronic Storm, whichever is greater, for the location of the facility. The applicable storm event for the permittee is identified in the certification on page one of this general permit.
 - ii) The production area is operated in accordance with the best management practices required in Part IV (B), and the recordkeeping requirements in Part V of this permit.
 - iii) The owner collects, analyzes, and reports the results of process wastewater samples in a manner and at locations as described in Part VI of this permit.
 - iv) During a Chronic Storm, discharge is not authorized where there is an interval between days of precipitation that was sufficient to allow process wastewater in the impoundment(s) and tanks to be transferred to another available impoundment or tank, or land applied in accordance with the conditions of this general permit.
- (b) There shall be no additional effluent limitations on discharges resulting from such overflows.

4) Large Swine, Poultry, and Veal Calf CAFOs (New Source Only)

- (a) There shall be no discharge of manure, litter or process wastewater into surface water from the production area except as provided below.
 - (i) Open-surface storage structure(s) must be designed, operated, and maintained in accordance with best management practices established by the division on a site-specific basis after a technical evaluation meeting the requirements of section 61.17(6)(b)(iv)(A)(I)(1)-(9) of Regulation No. 61.
 - (ii) The production area is operated in accordance with the best management practices required in Part IV (B), and the recordkeeping requirements in Part V of this permit.
 - (iii) The owner collects, analyzes, and reports the results of process wastewater samples in a manner and at locations as described in Part VI of this permit.
- (b) The division may establish effluent limitations based upon a site-specific evaluation of the CAFO's open surface manure storage structure(s).

(B) 25-YEAR, 24-HOUR STORM OR 10-YEAR, 10-DAY STORM (CHRONIC STORM) PRECIPITATION VALUES

- 1) The National Oceanic and Atmospheric Administration's National Weather Service Hydrometeorological Design Studies Center maintains the Precipitation Frequency Data Server (PFDS). Values for the 25-Year, 24-Hour Storm and 10-Year, 10-Day Storm (Chronic Storm) for Colorado can be obtained at the following internet address:
http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=co
- 2) Chronic Storm values may also be determined based on a site-specific analysis which shall be submitted by the owner with the application for certification under this general permit. Such analysis may not be used for compliance determination purposes unless the division has noted its approval of the analysis in the certification. The analysis shall be based on an appropriate period of record at the nearest location to the AFO or CAFO where such records exist.

Attachment B to this permit presents the method by which a site-specific Chronic Storm volume is to be calculated.

(C) LAND APPLICATION SITES

- 1) For Large Dairy Cow, Cattle, Swine, Poultry and Veal Calf CAFOs, there shall be no discharge of process wastewater or manure to surface waters from land application sites except when the facility is operated in accordance with a Nutrient Management Plan approved by the division in accordance with section 61.17(5)(d) of Regulation No. 61.
- 2) Facilities subject to this permit that apply manure or process wastewater to land must develop and implement a Nutrient Management Plan in accordance with the requirements specified in Part III of this permit.
- 3) Where manure or process wastewater has been applied in accordance with an approved Nutrient Management Plan, a precipitation-related discharge of manure or process wastewater from land application sites is an agricultural storm water discharge.

PART III - NUTRIENT MANAGEMENT PLANS

(A) NUTRIENT MANAGEMENT PLAN ELEMENTS

Each facility covered by this permit shall implement a site-specific nutrient management plan (NMP) upon the date of permit coverage. The NMP shall include best management practices and procedures necessary to implement the effluent limitations and standards, and all applicable conditions of this permit. The best management practices and procedures in a permittee's NMP, as listed in Part III (A)(1) through (9) below, are incorporated into this permit by reference. Failure to comply with the best management practices and procedures constitutes a violation of the terms and conditions of this permit.

The NMP must meet all the requirements of section 61.17(8)(b) of Regulation No. 61, including:

- 1) Ensure adequate storage of manure and process wastewater, including procedures to ensure proper operation and maintenance of the impoundments and tanks. The procedures shall include, but not be limited to:
 - (a) Except during the designed storm event, manure and process wastewater stored in impoundments and terminal tanks shall be removed as necessary to maintain a minimum of two feet of freeboard. Where identified in the certification on page one of this general permit, an alternative to the two-foot freeboard elevation requirement may be used.
 - (b) Whenever the storage capacity of impoundments and tanks is less than the volume required to store runoff from the storm event specified in the certification on page one of this general permit, the structures shall be dewatered to a level that restores the required capacity once soils on a land application site have the water holding capacity to receive process wastewater.
- 2) Ensure proper management of animal mortalities (i.e., dead animals) to prevent discharge of pollutants to surface waters. Mortalities shall remain on the production area until disposal and shall be managed to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage system that is not specifically designed to treat animal mortalities.
- 3) Ensure that clean water is diverted, as appropriate, from the production area.
- 4) Prevent direct contact of confined animals with surface waters.
- 5) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, storm water, or process wastewater storage system unless specifically designed to treat such chemicals and other contaminants.
- 6) Identify site-specific conservation practices that will be implemented, including as appropriate, buffers or equivalent practices, to control runoff of pollutants to surface water. Such practices shall include, but are not limited to:
 - (a) Solid manure shall be incorporated as soon as possible after application, unless the application site has perennial vegetation or is no-till cropped, or except where the nutrient management plan adequately demonstrates that surface water quality will be protected where manure is not so incorporated.
 - (b) Process wastewater to furrow- or flood-irrigated land application sites shall be applied in a manner that prevents any process wastewater runoff into surface waters.
 - (c) When process wastewater is sprinkler-applied, the soil water holding capacity of the soil shall not be exceeded.
 - (d) Process wastewater shall not be applied to either frozen or flooded land application sites.

- (e) Manure or process wastewater shall not be land-applied within 150 feet of domestic water supply wells, and within 300 feet of community domestic water supply wells.
- 7) Identify the protocols for appropriate sampling and testing of manure, process wastewater and soil.
- 8) Establish protocols to land apply manure or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure or process wastewater. Such protocols shall include, but are not limited to:
 - (a) No application of manure or process wastewater shall be made to a land application site at a rate that will exceed the capacity of the soil and the planned crops to assimilate nitrate-nitrogen within 12 months of the manure or process wastewater being applied.
 - (b) Manure and process wastewater shall be applied as uniformly as possible with properly calibrated equipment.
- 9) Identify specific records that will be maintained to document the implementation and management of the minimum NMP elements.

(B) NUTRIENT MANAGEMENT PLAN COMPLIANCE

The terms of the permittee's NMP, as listed in Part III (B)(1) below, are incorporated into this permit by reference when approved by the division. Failure to comply with the terms of the approved NMP constitutes a violation of the terms and conditions of this permit.

- 1) The terms of the nutrient management plan, with respect to protocols for land application of manure, litter, or process wastewater required by section 61.17(8)(b)(x) and as applicable, section 61.17(8) of Regulation No. 61, must include:
 - (a) The fields available for land application.
 - (b) Field-specific rates of application properly developed to ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater.
 - (c) Any timing limitations identified in the nutrient management plan concerning land application on the fields available for land application.
 - (d) Description of the rates of application of manure, litter and process wastewater to be land applied according to the following specifications:
 - i) Maximum amounts of nitrogen and phosphorus derived from all sources of nutrients, for each crop identified in the nutrient management plan, in chemical forms determined to be acceptable to the division, in pounds per acre, for each field;
 - ii) The outcome of field-specific assessment of potential for nitrogen and phosphorus transport to surface water for each field, using the USDA, NRCS Colorado Phosphorus Index Risk Assessment tool or other division-approved method;
 - iii) The crops to be planted in each field or any other uses such as pasture or fallow fields, including alternative crops;
 - iv) The realistic yield goal for each crop or use identified for each field;
 - v) The nitrogen and phosphorus recommendation for each crop or use identified for each field from a method approved by the division. Such methods may include, but are not limited to, the most current published fertilizer suggestions of the Cooperative Extension in Colorado or adjacent states, or the most current nutrient management planning guidelines for Colorado as published by the USDA, NRCS;

- vi) The methodology by which the nutrient management plan accounts for the following factors when calculating the amounts of manure, litter and process wastewater to be land applied:
 - I. Results of soil tests conducted in accordance with protocols identified in the nutrient management plan;
 - II. Credits for all nitrogen in the field that will be plant available;
 - III. The amount of nitrogen and phosphorus in the manure, litter and process wastewater to be applied;
 - IV. Consideration of multi-year phosphorus application;
 - V. Accounting for all other additions of plant available nitrogen and phosphorus to the field;
 - VI. The form and source of manure, litter and process wastewater;
 - VII. The timing and method of land application; and
 - VIII. Volatilization of nitrogen and mineralization of organic nitrogen.
 - vii) For alternative crops identified in the CAFO's nutrient management plan that are not in the planned crop rotation:
 - I. The crops must be listed by field, in addition to the crops identified in the planned crop rotation for that field;
 - II. The realistic crop yield goals, and the nitrogen and phosphorus recommendations from sources specified above; and
 - III. Maximum amounts of nitrogen and phosphorus from all sources of nutrients and the amounts of manure, litter and process wastewater to be applied must be determined in accordance with the methodology described above.
- 2) If approved by the division, nutrient management plan terms that meet the requirements of 40 CFR 122.42(e)(5)(i) may also be used to satisfy the NMP requirements of this permit.
- 3) The following projections must be included in the nutrient management plan submitted to the division, but are not terms of the nutrient management plan:
- (a) The CAFO's planned crop rotation for each field for the period of permit coverage;
 - (b) The projected amount of manure, litter process wastewater to be applied;
 - (c) Projected credits for all nitrogen in the field that will be plant available;
 - (d) Consideration of multi-year phosphorus application;
 - (e) Accounting for all other additions of plant available nitrogen and phosphorus to the field; and
 - (f) The predicted form, source, and method of application of manure, litter and process wastewater for each crop.
- 4) CAFOs must calculate maximum amounts of manure, litter and process wastewater to be land applied at least once each year using methodology required in Part III (B)(1)(vi) of this permit before land applying manure, litter or process wastewater and must rely on the following data:
- (a) A field-specific determination of soil levels of nitrogen and phosphorus, including:
 - (i) For nitrogen, a concurrent determination of nitrogen that will be available consistent with the methodology required in Part III (B)(1)(vi) of this permit.

(ii) For phosphorus, the results of the most recent soil test conducted in accordance with the soil testing requirements approved by the division.

(b) The results of most recent representative manure, litter and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application, in order to determine the amount of nitrogen and phosphorus in the manure, litter and process wastewater to be applied.

(C) CHANGES TO A NUTRIENT MANAGEMENT PLAN

- 1) When a CAFO makes changes to an approved NMP, the CAFO owner or operator must provide the division with the most current version of the CAFO's nutrient management plan and identify changes from the previous version. Calculations made in accordance with the requirements of section 61.17(8)(b)(xiv) of Regulation No. 61, are not considered changes to a NMP.
- 2) For changes that do not revise the terms of the NMP listed in Part III (B)(1) of this permit, the division will notify the CAFO and upon such notification, the CAFO may implement the revised nutrient management plan.
- 3) For substantial changes to the terms of the NMP listed in Part III (B)(1) of this permit, the division will notify the public and make the proposed changes and the information submitted by the CAFO available for public review and comment in accordance with section 61.5 of Regulation No. 61. When the changes to the terms of the nutrient management plan are incorporated into the permit, the division will notify the CAFO and inform the public of the final decision concerning changes to the terms and conditions of the permit. Substantial changes to the terms of a NMP include any of the following:
 - (a) Addition of new land application areas not previously included in the CAFO's NMP. Except that if the land application area that is being added to the NMP is covered by the terms of a NMP incorporated into an existing permit, and the CAFO applies manure, litter, or process wastewater on the newly added land application area in accordance with the existing field-specific permit terms applicable to the newly added land application area.
 - (b) Any changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop.
 - (c) Addition of any crop or other uses not included in the terms of the CAFO's nutrient management plan and corresponding field-specific rates of application;
 - (d) Changes to site-specific components of the CAFO's nutrient management plan, where such changes are likely to increase the risk of nitrogen and phosphorus transport to surface water based on the USDA, NRCS Colorado Phosphorus Index Risk Assessment tool or other division-approved method.
- 4) If the changes to the terms of the NMP are not substantial, the division will make the revised NMP publicly available and include it in the permit record, revise the terms of the NMP incorporated into the permit, notify the owner or operator, and inform the public of any changes to the terms of the NMP that are incorporated into the permit.

(D) NUTRIENT MANAGEMENT PLAN CERTIFICATION

The nutrient management plan must be signed by the operator or authorized signatory for the CAFO in accordance with Part I (K) of this permit.

PART IV - OPERATING REQUIREMENTS

(A) IMPOUNDMENTS

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of this permit. In addition, operations shall be conducted in a manner that does not result in a discharge to surface water not specifically authorized by this permit.

- 1) The permittee shall develop and implement, as of the date of coverage under this permit, specific practices and associated structures to ensure adequate storage capacity for process wastewater to achieve permit limitations.
- 2) Impoundments shall have a spillway that is designed and maintained to prevent erosion of the structural integrity of the impoundment, except as follows:
 - (a) An impoundment that holds a depth of process wastewater that is five feet or less, retains process wastewater for 48 hours or less, and from which any overflow will be captured by a down-gradient impoundment or tank, shall be exempt from this requirement;
 - (b) If applicable, the certification on page one of this general permit specifies that no spillway is required for an impoundment(s).

(B) BEST MANAGEMENT PRACTICES (BMPs)

Large Dairy Cow, Cattle, Swine, Poultry, and Veal Calf CAFOs must implement the following Best Management Practices (BMPs) to the extent they are applicable.

- 1) Perform weekly inspections of all stormwater run-on diversion devices, runoff diversion structures, animal waste storage structures and devices channeling process wastewater to impoundments or tanks;
- 2) Perform daily inspections of water lines, including drinking water or cooling water lines;
- 3) Install depth markers in all open surface impoundments and terminal storage tanks to indicate the design volume and to clearly indicate the minimum capacity necessary to contain a 25-Year, 24-Hour Storm or Chronic Storm, whichever is greater, and to clearly indicate the two-foot freeboard elevation. At a minimum, depth markers shall be clearly marked in one-foot increments. Where identified in the certification on page one of this general permit, an alternative to the two-foot freeboard elevation requirement may be used;
- 4) Perform weekly inspections of impoundments and tanks and record the process wastewater level in open surface impoundments and terminal storage tanks as indicated by the required depth marker(s);
- 5) Correct any deficiencies found as a result of daily and weekly inspections as soon as possible, but no later than 30 days after identifying the deficiency, unless factors preventing correction within 30 days have been documented;
- 6) Accumulations of manure shall be removed from impoundments and tanks as necessary to maintain the capacity of the structures to retain the storage volume from the storm event specified in the certification on page one of this general permit.

(C) EQUIPMENT INSPECTIONS

The permittee must periodically inspect equipment used for land application of manure and process wastewater for leaks. At a minimum, such inspection shall be made annually and within the six-month period prior to the first application of manure or process wastewater, and at least once daily when process wastewater is being applied.

(D) SETBACKS

- 1) Manure and process wastewater shall not be applied within 100 feet of any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface water. Where identified in the certification on page one of this general permit, an alternative to this setback requirement may be used as described below:
 - (a) A 35-foot wide vegetated buffer where applications of manure or process wastewater is prohibited may be substituted for the 100-foot setback;
 - (b) The permittee may demonstrate that a setback or buffer is not necessary because implementation of alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved with a 100-foot setback.

(E) THIRD PARTY TRANSFERS

- 1) Where the permittee transfers manure or process wastewater to third parties, the permittee must comply with the following conditions prior to transferring the manure or process wastewater:
 - (a) Provide the recipient with the most current nutrient analysis of the manure or process wastewater that was acquired in accordance with the nutrient management plan;
 - (b) Record the date and approximate amount of manure and process wastewater transferred to a third party(ies); and,
 - (c) Record the name and address of the third party recipient(s).

PART V - RECORDKEEPING

The permittee must maintain on-site the following records. All records must be maintained on-site for five years from the date they are created and must be made available within a reasonable time to the division or its designee upon request.

(A) PERMIT AND NMP RECORDS

- 1) A copy of the permittee's most current Nutrient Management Plan (NMP).
- 2) The completed permit application required pursuant to Part I (I) of this permit.
- 3) The records that document the implementation and management of the minimum NMP elements, pursuant to Part III (A) 9) of this permit.
- 4) Records documenting the current design of any manure storage structures, including volume of solids accumulations, design treatment volume, total design volume and approximate number of days of storage capacity.
- 5) Records of date, time and estimated volume of any overflows.
- 6) Records of mortalities management practices used by the CAFO to ensure that mortalities remain on the production area until disposal, and that mortalities are not disposed of in a liquid manure, storm water or process wastewater storage system that is not specifically designed to treat animal mortalities.

(B) BEST MANAGEMENT PRACTICE RECORDS

For Large Dairy Cow, Cattle, Swine, Poultry and Veal Calf CAFOs, the following records documenting the implementation of Best Management Practices in accordance with Part IV of this permit, including:

- 1) Records documenting the weekly inspections of all stormwater run-on diversion devices, runoff diversion structures, animal waste storage structures, and devices channeling process wastewater to impoundments or tanks.
- 2) Records documenting the daily inspections of water lines, including drinking water or cooling water lines.
- 3) Weekly records of the depth of the manure and process wastewater in the liquid impoundments and terminal storage tanks as indicated by the required depth marker(s).
- 4) Records documenting actions taken to correct any deficiencies found as a result of the daily and weekly inspections required pursuant to this permit. Deficiencies not corrected within 30 days shall be accompanied by an explanation of the factors preventing immediate correction.

(C) THIRD PARTY TRANSFER RECORDS

Records documenting that transfers of manure or process wastewater to third parties comply with the requirements in Part IV (E) of this permit, including:

- 1) Records documenting that the third party recipient was provided with the most current nutrient analysis of the manure or process wastewater, as acquired in accordance with the nutrient management plan.
- 2) Records documenting the date and approximate amount of manure and process wastewater transferred to third party(ies).
- 3) Records documenting the name and address of the third party recipient(s).

(D) LAND APPLICATION RECORDS

For Large Dairy Cow, Cattle, Swine, Poultry and Veal Calf CAFOs, the following complete records for land application sites:

- 1) Expected crop yields.
- 2) The date(s) manure or process wastewater is applied to each land application site.
- 3) The amount of precipitation received at the time of land application and for 24 hours prior to and following application.
- 4) Test methods used to sample and analyze manure, process wastewater and soil.
- 5) Results from manure, process wastewater, and soil sampling and analysis.
- 6) Explanations of the basis for determining manure and process wastewater application rates, in accordance with the CAFO's approved nutrient management plan.
- 7) Calculations showing the total nitrogen and phosphorus that will be applied to each land application site, including sources other than manure or process wastewater.
- 8) The total amount of nitrogen and phosphorus actually applied to each land application site, including documentation of calculations for total amount applied.
- 9) The method used to apply manure and process wastewater.
- 10) Date(s) of manure application equipment inspections conducted in accordance with this permit.

(E) DISCHARGE MONITORING RECORDS

The permittee shall retain records of all discharge monitoring. The permittee must establish and maintain records that include, but is not limited to the following:

- 1) The date, type, exact place and time of discharge sampling or measurements.
- 2) The individual(s) who performed the discharge sampling or measurements.
- 3) The date(s) the analyses were performed.
- 4) The individual(s) who performed the analyses.
- 5) The analytical techniques or methods used.
- 6) The results of such analyses.

The period of retention for discharge monitoring information shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the division.

PART VI - DISCHARGE MONITORING

(A) DISCHARGE MONITORING PARAMETERS

The permittee shall monitor the following discharge parameters at the indicated frequencies during all discharges, including those resulting from the design storm (25-Year, 24-Hour Storm or Chronic Storm, whichever is greater).

<u>Process Wastewater Parameter</u>	<u>Frequency</u>	<u>^a Sample Type</u>
Flow, [million gallons per day (MGD)]	^b 3/Discharge	Calculated
^c BOD ₅ , mg/l	1/Discharge	Grab
Total Suspended Solids (TSS), mg/l	1/Discharge	Grab
E. coli, org/100 ml	1/Discharge	Grab
Nitrate, as N, mg/l	1/Discharge	Grab
Total Ammonia, mg/l as N	1/Discharge	Grab

FOOTNOTES

^a A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected so as to be representative of the parameter being monitored.

^b Record flow as close as possible to the beginning, middle and end of the discharge. The flow measurement shall be representative of the flow rate of the discharge.

^c BOD₅ = five-day biochemical oxygen demand.

(B) DISCHARGE MONITORING LOCATIONS

- 1) Samples taken in compliance with the self-monitoring requirements specified above shall be taken at each of the following location(s):
 - (a) The discharge point(s) identified in the certification on page one of this permit;
 - (b) Following the retention structure; and,
 - (c) Prior to mixing with waters of the state.
- 2) If conditions are not safe for sampling, the permittee shall provide documentation of why samples could not be collected and analyzed. For example, the permittee may be unable to collect samples during dangerous weather conditions (such as local flooding, tornadoes, electrical storms). However, once dangerous conditions have passed, the permittee shall collect a sample from the impoundment or tank from which the discharge occurred.

(C) ANALYTICAL AND SAMPLING METHODS

Discharges shall be sampled and analyzed with approved methods cited in the Colorado Water Quality Control Commission Regulations for Effluent Limitations (5 CCR 1002-62), the Colorado Discharge Permit System Regulations (5 CCR 1002-61), the federal regulations (40 CFR Part 136), and other applicable state or federal regulations.

(D) REPRESENTATIVE SAMPLING

Discharge parameter samples and measurements taken at monitoring points as required by the permit shall be representative of the volume and nature of the monitored process wastewater discharged from the permitted facility.

(E) PROCESS WASTEWATER DISCHARGE SAMPLING POINTS

- 1) Process wastewater discharge sampling points must be designed or modified to ensure that a sample of the discharge can be obtained at a point prior to a discharge to surface water. The permittee shall provide access to the division and its designee to sample at these points.
- 2) Authorization to discharge is site-specific and is not transferable to alternative locations.

(F) RECORD OF DISCHARGE MONITORING

The permittee must establish and maintain records of all discharge monitoring in accordance with Part V (E) of this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee, or when requested by the division.

(G) ADDITIONAL MONITORING BY PERMITTEE

If, using approved analytical methods, the permittee monitors any discharge parameter more frequently than required by this permit; the results of such monitoring shall be included in the reporting of values required by the division. The increased monitoring frequency must also be indicated to the division.

PART VII - REPORTING

(A) REPORT SUBMITTALS

Submit all original reports and other information required by the division to the following address:

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
ENVIRONMENTAL AGRICULTURE PROGRAM
DEHS-A2
4300 CHERRY CREEK DRIVE SOUTH
DENVER, CO 80246-1530

(B) SIGNATURE AND CERTIFICATION

All reports and other information required by the division must be signed and certified for accuracy in accordance with Part I (K) of this permit.

(C) ANNUAL REPORTING REQUIREMENTS

- 1) The permittee must submit an annual report to the division by March 31st of each year. The annual report must, at a minimum, include the following information:
 - (a) The number and type of animals, whether in open confinement or housed under roof.
 - (b) The estimated amount (tons or gallons) of total manure and process wastewater generated by the facility in the previous 12 months.
 - (c) The estimated amount (tons or gallons) of total manure and process wastewater transferred to other persons by the facility in the previous 12 months.
 - (d) The total number of acres for land application covered by the approved nutrient management plan in the previous 12 months.
 - (e) The total number of acres of land application sites that were used for application of manure and process wastewater in the previous 12 months.
 - (f) A summary of all manure and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time and approximate volume.
 - (g) A statement indicating whether the current version of the facility's nutrient management plan was developed or approved by a certified nutrient management planner.
 - (h) The actual crop(s) planted and actual yield(s) for each field, the actual nitrogen and phosphorus content of the manure, litter and process wastewater, the results of calculations conducted in accordance with Part III (B) of this permit, and the amount of manure, litter and process wastewater applied to each field during the previous 12 months.
 - (i) The results of any soil testing for nitrogen and phosphorus taken during the preceding 12 months, the data used in calculations conducted in accordance with Part III (B) of this permit, and the amount of any supplemental fertilizer applied during the previous 12 months.
 - (j) The signature of the operator or other authorized signatory in accordance with Part I (K) of this permit.

(D) NOTIFICATIONS

1) Discharge Notification

- (a) In the event of a discharge, the permittee shall, at a minimum, notify the division within five calendar days and provide the following information in writing within 30 calendar days of the date of the discharge:
 - i) A description of the discharge, including the cause and an estimated volume of waste discharged.
 - ii) The period of discharge, including exact dates and times.
 - iii) The results of discharge monitoring performed in accordance with Part VI of this permit.

2) Noncompliance Notification

- (a) The following instances of noncompliance must be reported orally to the Colorado Release and Incident Reporting Line at 1-877-518-5608 within 24-hours from the time the permittee becomes aware of the circumstances. A written report, containing the information detailed below in paragraph (b) must be mailed to the division within five days of the time the permittee becomes aware of the following circumstances:
 - i) Any instance of noncompliance which may endanger human health or the environment, regardless of the cause for the incident; or
 - ii) Any unanticipated discharge, spill, bypass or upset, which caused a permit limitation to be exceeded.
- (b) Except for those instances of noncompliance which require notification within 24-hours (see above), the permittee must report to the division all instances of noncompliance within 30 calendar days from the date(s) that noncompliance occurred. If for any reason the permittee does not or cannot comply with any discharge limitations, standards or conditions specified in this permit, the permittee shall, at a minimum, provide the division with the following information:
 - i) A description of the cause of noncompliance.
 - ii) The period of noncompliance, including exact dates and times and/or the anticipated time when the conditions will return to compliance.
 - iii) Steps being taken to reduce, eliminate, and prevent recurrence of the noncompliant condition.
 - iv) The results of discharge monitoring performed, if required.
- (c) If the permittee knows in advance of the need for a bypass, it must submit written notification to the division of the need for such bypass at least 10 days before the date of the contemplated bypass.
- (d) The permittee shall give advance notice to the division of any planned changes in the permitted facility or activity that may result in noncompliance with certification requirements.

3) Submission of Incorrect or Incomplete Information

If at any time a permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the division, it shall promptly submit such facts or information.

(E) COMPLIANCE SCHEDULE NOTIFICATION

Reports of compliance or noncompliance, or any progress reports on interim and final requirements contained in a compliance schedule in the permit, must be submitted no later than 14 days following each scheduled date, unless otherwise provided by the division.

(F) CHANGE IN DISCHARGE

- 1) The permittee must inform the division in writing of any planned physical alterations or additions to the permitted facility that could:
 - (a) Significantly change the nature or increase the quantity of pollutants discharged; or
 - (b) Result in a change in the manure or process wastewater management practices, and such alteration, addition, or change may justify the application of certification conditions that are different from or absent in the existing certification, including notification of additional use or land application site(s) not reported pursuant to an approved NMP.
- 2) Whenever notification of any planned physical alterations or additions to the permitted facility is required pursuant to this section, the permittee must furnish the division with the plans and specifications deemed reasonably necessary to evaluate the effect on the manure or process wastewater disposal practices. If the division determines that the planned changes are inconsistent with the conditions of the permit, and prior to the date that the new or altered changes take place, the division will require a new or revised permit application per the procedures specified in sections 61.5, 61.6, and 61.15 of Regulation No. 61.
- 3) Any change to the treatment facility (i.e., impoundment, tank, conveyance, etc.) or to the process wastewater it receives, that results in the inability to meet any condition of this permit, must be reported to the division within 10 working days of the date the permittee becomes aware of such change. The division will require the permittee to apply for and obtain an individual permit if it is determined that the facility no longer qualifies for authorization to discharge under this general permit.

PART VIII - STANDARD PERMIT CONDITIONS

(A) GENERAL CONDITIONS

- 1) Nothing in this permit or certification under this permit shall be construed to prevent or limit application of any emergency power of the division.
- 2) Failure to comply with any terms and/or conditions of the permittee's certification under this permit shall be a violation of the permit. The discharge of any pollutant identified in the certification under this permit more frequently than, or at a level in excess of that authorized, shall constitute a violation of the permit.
- 3) Except as provided in Part VIII (D) of this permit, nothing in the permit or permit certification shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.
- 4) The provisions of this permit and certification under this permit are severable. If any provision(s) of this permit or certification under this permit, or the application of any provision of this permit or certification under this permit, in any circumstance is held invalid, the application of such provision to other circumstances and the application of the remainder of this permit or the certification is not affected.
- 5) The permittee shall include pertinent terms and conditions of its certification under this general permit in all contracts for receipt by the permittee of any effluent not required to be received by the permittee.
- 6) The issuance of this permit or certification under this permit does not convey any property or water rights in either real or personal property or stream flow or any exclusive privileges. Neither does it authorize any injury to private property, any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
- 7) Nothing in permit or certification under this permit shall be construed to preclude the institution of any legal action or relieve the permittee from all responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Federal Clean Water Act.
- 8) Nothing in this permit or certification under this permit shall be construed to preclude the institution of any legal action or relieve the permittee from all responsibilities, liabilities or penalties to which the permittee is, or may be subject to under Section 311 (Oil and Hazardous Substance Liability) of the Federal Clean Water Act, except as recognized by federal law.
- 9) Any discharge to surface water from a point source other than specifically authorized herein is prohibited.
- 10) The permittee shall furnish to the division, within a reasonable time, any information which the division may request to determine whether cause exists for modifying, revoking, reissuing or terminating the permittee's certification under this permit, or to determine compliance with the certification. The permittee must also furnish to the division, upon request, copies of records required to be kept by the permit.
- 11) A permittee's facility shall be considered closed where the facility has ceased operation. The permittee shall demonstrate to the satisfaction of the division that there is no remaining potential for a discharge of manure or process wastewater that was generated while the CAFO was in operation.

(B) MANAGEMENT CONDITIONS

- 1) The permittee has the duty to halt or reduce any activity, if necessary, to maintain compliance with the effluent limitations of its certification under this general permit. In an enforcement

action, a permittee cannot use a defense that it would be necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of its certification under this permit.

- 2) The permittee must take all reasonable steps to minimize or prevent any adverse impact to waters of the state resulting from any discharge. Accelerated or additional monitoring of the discharge may be required, as necessary, to determine the nature and impact of noncompliance.
- 3) Except for data determined to be confidential under Section 308 of the Federal Clean Water Act and section 61.5 (4)(b) of Regulation No. 61, all reports prepared in accordance with the terms of certification under this permit are available for public inspection at the offices of the division. As required by the Federal Clean Water Act, effluent data shall not be considered confidential.
- 4) Knowingly making any false statement on any required report may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Clean Water Act, and Section 25-8-610, C.R.S.
- 5) Solids, sludges, manure, process wastewater, or any other such material removed in the course of treatment or control of wastewater, must be disposed of in accordance with applicable state and federal regulations, including the terms and conditions of this permit.

(C) INSPECTIONS AND RIGHT TO ENTRY

The permittee shall allow the division, and/or authorized representatives, upon the presentation of credentials:

- 1) To enter upon the permittee's premises where a regulated facility or activity is located or in which any records are required to be kept under the terms and conditions of its certification under this permit.
- 2) To have access, at a reasonable time, to inspect and copy any records required to be kept under the terms and conditions of the permit certification and to inspect any monitoring equipment or monitoring method required in the certification.
- 3) To enter upon the permittee's premises, in a reasonable manner and at a reasonable time, to inspect and/or investigate any actual, suspected, or potential source of water pollution, or to ascertain compliance or noncompliance with any applicable state or federal statute or regulation or any order promulgated by the division. The investigation may include, but is not limited to the following:
 - (a) Sampling of any discharge and/or process wastewater;
 - (b) Taking of photographs;
 - (c) Interviewing of any persons having knowledge related to the certification under this permit or alleged violation; and
 - (d) Accessing any and all facilities or areas within the permittee's premises that may have any effect on the discharge, permit or alleged violation.
- 4) Such entry is also authorized for the purpose of inspecting and copying records required to be kept concerning any discharge source.

(D) BYPASS

- 1) A bypass is prohibited and the division may take enforcement action against a permittee for such a bypass, unless:
 - (a) The bypass was unavoidable to prevent loss of life, personal injury or severe property damage.
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance.
 - (c) The permittee submitted notices as required in Part VII of this permit.
- 2) Severe property damage, as used in this subsection, means substantial physical damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(E) UPSET

- 1) An upset constitutes an affirmative defense to an action brought for noncompliance with a technology-based permit effluent limitation if the requirements of paragraph (2) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is a final administrative action subject to judicial review.
- 2) A permittee who elects to establish the affirmative defense of upset shall demonstrate through properly signed contemporaneous operating logs or other relevant evidence that:
 - (a) An upset occurred and that the permittee can identify the specific cause(s) of the upset;
 - (b) The permitted facility was at the time being properly operated and maintained;
 - (c) The permittee submitted notice of the upset as required in Part VII of this permit; and
 - (d) The permittee took all reasonable steps to minimize or prevent any discharge, sludge use, or disposal in violation of its certification under this general permit that has a reasonable likelihood of adversely affecting human health or the environment.
- 3) In addition to the demonstration required above, the permittee who wishes to establish the affirmative defense of upset for a violation of effluent limitations based upon water quality standards must also demonstrate through monitoring, modeling or other methods that the relevant standards were achieved in the receiving water.
- 4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

(F) MODIFICATION, SUSPENSION, OR REVOCATION OF PERMIT OR CERTIFICATION

- 1) Requests for modification, revocation and reissuance, or termination of this general permit may be filed by permittees or any person adversely affected or aggrieved by the terms of this permit or a certification issued under this permit.
- 2) All permit or certification modification, termination or revocation and reissuance actions shall be subject to the requirements of sections 61.5(2), 61.5(3), 61.6, 61.7 and 61.15 of Regulation No. 61, except for minor modifications.

- 3) The permittee shall furnish to the division, within a reasonable time, any information which the division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit.
- 4) The division may modify, suspend, or terminate a certification under this permit in whole or in part during its term, for reasons determined by the division including, but not limited to, the following:
 - (a) Violation of any terms or conditions of this permit or the permit certification.
 - (b) Obtaining a certification by misrepresentation or failing to disclose any fact that is material to the granting or denial of a certification, or to the establishment of terms or conditions of the certification.
 - (c) Materially false or inaccurate statements or information in the application to be certified under this general permit.
 - (d) A determination that activity under the certification endangers human health, or the classified or existing uses of state waters, and can only be regulated to acceptable levels by modifications to or termination of the permit or certification.
- 5) Either this general permit or the certification under this permit may be modified in whole or in part for the following causes, as applicable, provided that such modification complies with the provisions of section 61.10 of Regulation No. 61:
 - (a) There are material and substantial alterations or additions to the certified facility or activity which occurred after certification issuance which justify the application of certification conditions that are different or absent in the existing certification.
 - (b) When the division receives new information which was not available at the time of either permit issuance or certification under this permit (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit or certification conditions at the time of issuance. For general permits, this includes information indicating that cumulative effects on the environment are unacceptable. For permit certifications issued to new sources or new permittees, this includes information derived from effluent testing required under section 61.4(7)(e) of Regulation No. 61. This provision allows a modification of the permit to include conditions that are less stringent than the existing certification only to the extent allowed under Section 61.10 of Regulation No. 61.
 - (c) When the standards or regulations on which the certification or general permit was based have been changed by promulgation of amended standards or regulations, or by judicial decision, after the permit or certification was issued. The general permit, or certifications under it, may be modified during the term of the permit for the following cause only:
 - i) The permit or certification condition requested to be modified was based on a promulgated effluent limitation guideline, EPA-approved water quality standard, or an effluent limitation set forth in Water Quality Control Commission Regulation No. 62, section 62.1.
 - ii) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit or certification condition was based, or has approved a Water Quality Control Commission action with respect to the water quality standard or effluent limitation on which the permit or certification condition was based.
 - iii) The permittee requests modification as required in Regulation No. 61, after the notice of final action by which the EPA effluent limitation guideline, water quality standard, or effluent limitation is revised, withdrawn, or modified.

- iv) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concerned that portion of the regulations or guidelines on which the permit or certification condition was based and a request is filed by the permittee in accordance with Regulation No. 61, within 90 days of the judicial remand.
 - (d) When the division determines that good cause exists to modify a permit or certification condition because of events over which the permittee has no control and for which there is no reasonable available remedy.
 - (e) When the permittee has received a variance.
 - (f) When modification is required to incorporate applicable toxic effluent limitation or standards adopted pursuant to 307(a) of the Federal Clean Water Act.
 - (g) When modification is required by the reopener conditions in the permit or certification.
 - (h) When the level of discharge of any pollutant which is not limited in the permit or certification exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under section 61.8(2)(a) of Regulation No. 61.
 - (i) To establish a pollutant notification level required in section 61.8(5) of Regulation No. 61.
 - (j) To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit or certification conditions, to the extent allowed in section 61.10 of Regulation No. 61.
 - (k) For any other cause provided in section 61.10 of Regulation No. 61.
- 6) At the request of a permittee, the division may modify or terminate a certification and issue a new certification if the following conditions are met:
- (a) The division has been notified of the proposed modification or termination and does not object in writing within 30 days of receipt of notification.
 - (b) The division finds that the permittee has shown reasonable grounds consistent with the federal and state statutes and regulations for such modifications or termination.
 - (c) Requirements of section 61.15 of Regulation No. 61 have been met.
- 7) Modification (except for minor modifications), termination or revocation, and reissuance actions for permit certifications shall be subject to the requirements of sections 61.5(2), 61.5(3), 61.6, 61.7 and 61.15 of Regulation No. 61. The division shall act on a request to modify the certification within 180 days of receipt thereof. Except for minor modifications, the terms of the existing certification govern and are enforceable until the newly issued certification is formally modified or revoked and reissued.
- 8) Upon consent by the permittee, the division may make minor permit modifications without following the requirements of sections 61.5(2), 61.5(3), 61.7 and 61.15 of Regulation No. 61. Minor modifications to permits are limited to:
- (a) Correcting typographical errors;
 - (b) Increasing the frequency of monitoring or reporting by the permittee;
 - (c) Changing an interim date in a schedule of compliance, provided the new date of compliance is not more than 120 days after the date specific in the existing permit and does not interfere with attainment of the final compliance date requirement;
 - (d) Allowing for a transfer in ownership or operational control of a facility where the division determines that no other change in the permit is necessary, provided that a written

agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the division;

- (e) Changing the construction schedule for a discharger which is a new source, but no such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge; or
 - (f) Deleting a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.
- 9) For a certification issued under this general permit, the filing of a request by the permittee for certification modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any certification condition.
- 10) All permit and certification modifications and reissuance are subject to the anti-backsliding provisions set forth in sections 61.10(e) through (g) of Regulation No. 61.

(G) CONFIDENTIALITY

Any information relating to any secret process, method of manufacture or production, or sales or marketing data, which may be acquired, ascertained, or discovered, whether in any sampling investigation, emergency investigation, or otherwise, shall not be publicly disclosed by any member, officer, or employee of the division, but shall be kept confidential. Any person seeking to invoke the protection of this section shall bear the burden of proving its applicability. This section shall never be interpreted as preventing full disclosure of effluent data.

(H) FEES

The permittee is required to submit an annual fee as set forth in the Colorado Water Quality Control Act, Section 25-8-502 (l) (b), C.R.S. Failure to submit the required fee when due and payable is a violation of the permit and will result in enforcement action pursuant to Sections 25-8-601, et seq., C.R.S.

PART IX - DEFINITIONS

- (A) 25-YEAR, 24-HOUR STORM means a storm of a 24-hour duration which yields a total rainfall of a magnitude which has a probability of recurring once every 25 years.
- (B) ACT means the Colorado Water Quality Control Act (25-8-101 et seq. C.R.S.) as from time to time amended, section 25-8-101 et seq, C.R.S.
- (C) ANIMAL FEEDING OPERATION (AFO) means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
- 1) Animal (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
 - 2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- (D) APPROPRIATE AGRICULTURAL UTILIZATION OF THE NUTRIENTS means the agronomic rate of application of nutrients to plants that is necessary to satisfy the plants' nutritional requirements while strictly minimizing the amount of nutrients that run off to surface waters or which pass below the root zone of the plants.
- (E) BEST MANAGEMENT PRACTICES (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state waters. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (F) BYPASS means the intentional diversion of waste streams from any portion of a treatment facility.
- (G) CHRONIC STORM means a series of storms that occur during a 10-day period which yield a total precipitation of a magnitude that has a probability of recurring once every 10 years.
- (H) COMPLETE APPLICATION means an application for a point source discharge permit which has been determined by the division to be complete in accordance with section 61.5(1) of Regulation No. 61.
- (I) CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) means an animal feeding operation that is defined as a Large or Medium CAFO, or that is designated by the division as a CAFO. Two or more animal feeding operations under common ownership are deemed to be a single AFO for the purposes of whether they qualify as a Large or Medium CAFO, if they are adjacent to each other or if they use a common area or system for land application of manure or process wastewater.
- (J) DISCHARGE means the discharge of pollutants as defined in section 25-8-103(3) C.R.S., and also includes land application.
- (K) DIVISION means the Division of Environmental Health and Sustainability of the Department of Public Health and Environment.
- (L) EFFLUENT LIMITATION means any restriction or prohibition established under Regulation No. 61 or federal law on quantities, rates, and concentrations of chemical, physical, biological, and

other constituents which are discharged from point source into state waters, including, but not limited to, standards of performance for new sources, toxic effluent standards and schedules of compliance.

- (M) FREEBOARD means the vertical distance measured from the liquid surface level (elevation) in an impoundment or tank to the top elevation of the impoundment or tank (for example, berm or wall).
- (N) GENERAL PERMIT means a permit authorizing a category of discharges under the Clean Water Act designated category of activities within a geographical area, issued under section 61.9(2) of Regulation No. 61.
- (O) GRAB SAMPLE means a single sample collected at a particular time and place that represents the composition of the water only at that time and place.
- (P) IMPOUNDMENT means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is used for the storage, treatment, evaporation or discharge of pollutant-containing waters, sludge, or associated sediment.
- (Q) LAND APPLICATION is any discharge being applied directly to the land for land disposal or land treatment and does not include a discharge to surface waters even if such waters are subsequently diverted and applied to the land.
- (R) LAND APPLICATION SITE means land under the control of a concentrated animal feeding operation operator, whether it is owned, rented, or leased by the CAFO, to which manure or process wastewater from the production area is or may be applied, or where cropping or nutrient budget decisions for the site are made by the CAFO.
- (S) LARGE CONCENTRATED ANIMAL FEEDING OPERATION (LARGE CAFO) means an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

Animal Type	Stables or Confines
Cattle (other than mature dairy cows)	1,000
Veal Calves	1,000
Mature Dairy Cattle	700
Swine (weighing 55 pounds or more)	2,500
Swine (weighing less than 55 pounds)	10,000
Sheep or Lambs	10,000
Horses	500
Turkeys	55,000
Layer Chickens (dry manure facility)	82,000
Non-Layer Chickens (dry manure facility)	125,000
Chickens (liquid manure facility)	30,000

(T) MANURE means feces, litter, and/or urine and materials, such as bedding, sludge, compost, feed waste, dry harvested forage, and any raw material used in or resulting from operation of an animal feeding operation, that have been commingled with feces, litter, and/or urine.

(U) MEDIUM CONCENTRATED ANIMAL FEEDING OPERATION (MEDIUM CAFO) means an AFO with the type and number of animals that fall within any of the ranges listed in the table below and which has been defined or designated as a CAFO.

Animal Type	Stables or Confines
Cattle (other than mature dairy cows)	300-999
Veal Calves	300-999
Mature Dairy Cattle	200-699
Swine (weighing 55 pounds or more)	750-2,499
Swine (weighing less than 55 pounds)	3,000-9,999
Sheep or Lambs	3,000-9,999
Horses	150-499
Turkeys	16,500-54,999
Layer Chickens (dry manure facility)	25,000-81,999
Non-Layer Chickens (dry manure facility)	37,500-124,999
Chickens (liquid manure facility)	9,000-29,999

(V) MULTI-YEAR PHOSPHORUS APPLICATION means phosphorus applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications, no additional manure, residual solids, process wastewater, or swine feeding process wastewater is applied to the same land in subsequent years until the applied phosphorus has been removed from the field via harvest and crop removal.

(W) NEW SOURCE means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the promulgation of standards of performance for the particular source, pursuant to section 306 of the Clean Water Act. The term also applies where a standard of performance has been proposed, provided that the standard is promulgated within 120 days of its proposal. Except as otherwise provided in an applicable new source performance standard, a source is a "new source" if it meets this definition of "new source", and:

- 1) It is constructed at a site at which no other source is located;
- 2) It totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- 3) It processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the division shall consider such factors as the extent to which the new facility is integrated with the existing plant; and the extent to which the new facility is engaged in the same general type of activity as the existing source.

(X) OPERATOR means any person who owns, leases, operates, controls, or supervises an animal feeding operation or concentrated animal feeding operation.

- (Y) OVERFLOW means the release of manure or process wastewater resulting from the filling of an impoundment or tank beyond the point at which no more manure or process wastewater can be contained by the structure.

- (Z) PERMIT means a permit issued pursuant to Regulation No. 61 and therefore includes Colorado Discharge Elimination System permits, including new permit, renewals, general permits, general permit program area permits and temporary permits.

- (AA) PERMITTEE means any operator in this state that is certified to be covered under the provisions of this general permit.

- (BB) PERSON means an individual, corporation, partnership, association, state or political subdivision thereof, federal agency, state agency, municipality, commission, or interstate body.

- (CC) POINT SOURCE means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Point Source does not include irrigation return flow.

- (DD) POLLUTANT means a dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal or agricultural waste.

- (EE) PROCESS WASTEWATER means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.

- (FF) PRODUCTION AREA means that part of an animal feeding operation that includes the animal confinement area, the manure and residual solids storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure and residual solids storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments and tanks, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

- (GG) SCHEDULE OF COMPLIANCE means a schedule of remedial measures and times including an enforceable sequence of actions or operation leading to compliance with a control regulation or effluent limitation.

- (HH) SETBACK means a specified distance from surface waters, or potential conduits to surface waters, where manure, residual solids, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: open tile line intake structures, sinkholes, and agricultural well heads.

- (II) SITE means the land or water area where any facility or activity subject to Regulation No. 61 is physically located or conducted, including adjacent land used in connection with the facility or activity.
- (JJ) SMALL CONCENTRATED ANIMAL FEEDING OPERATION (SMALL CAFO) means an AFO that is designated by the division as a CAFO, and is not a Medium CAFO.
- (KK) SPILLS means an incident in which flows or solid materials are accidentally or unintentionally allowed to flow or escape so as to be lost from the permitted operation as defined in Colorado Water Quality Control Act, which may cause pollution to waters of the state.
- (LL) SPILLWAY means a constructed passage for surplus wastewater to pass over or through an impoundment structure.
- (MM) STATE WATERS means any and all surface and subsurface waters which are contained in or flow in or through this State, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems and all water withdrawn for use until use and treatment have been completed.
- (NN) STORMWATER means stormwater runoff, snow melt runoff, and surface runoff and drainage.
- (OO) SURFACE WATER means all waters of the state that are also waters of the United States.
- (PP) TANK means a stationary device, designed to contain an accumulation of pollutant-containing water, which is constructed primarily of non-earthen materials (e.g. wood, concrete, steel, plastic) which provide structural support.
- (QQ) TREATMENT FACILITY means any impoundment, tank, conveyance or other vessel that stores and treats pollutant-containing waters, sludge, or associated sediment.
- (RR) UPSET means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (SS) VEGETATED BUFFER means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters.
- (TT) WATERS OF THE STATE means state waters as defined above.
- (UU) WATERS OF THE UNITED STATES (U.S.) means waters as defined in 40 C.F.R. Part 122.2.

Attachment A

***Application to Be Certified Under a General Permit for Concentrated Animal Feeding
Operations***

Attachment B

Method for Calculating or Obtaining Precipitation Values for Chronic Storms (10-Year, 10-Day)

Calculation Method:

Identify an official weather station that is located within 50 miles of the subject AFO or CAFO, and that has at least 50 years of precipitation data. Select a station with precipitation data that best represents the subject AFO/CAFO site. Absent such a station that is located within 50 miles, identification of one located within 75 miles of the AFO/CAFO is acceptable.

For each year of precipitation data, calculate running 10-day totals of precipitation amounts. That is, calculate a precipitation total for January 1 through January 10, a separate total for January 2 through 11, a separate total for January 3 through 12, and so on.

Over the at least 50 years of data, identify the 50 greatest values of precipitation that were recorded during 10-day periods. Some years may have more than one of the top 50 values, and some years may have none. If two or more of the values are from 10-day periods that overlap, retain the greatest value and ignore the others. For example, one of the 50 greatest values is 3.0 inches which is for the 10-day period of February 3 through 12, and another 50-greatest-value is 2.8" which is for the period of February 7 through 16 of the same year. Retain the 3.0-inch value and ignore the 2.8-inch value. Skip to the February 13 through 22 period to begin looking for other 50 greatest values.

After identifying the 50 greatest values of precipitation received over 10 days, rank the values from the largest to the smallest amount.

Assuming 50 years of data, the fifth largest value represents a 5 in 50, or 1 in 10, chance of receiving this precipitation amount over 10 days in any given year.

NRCS Values:

10-Year, 10-Day frequency rainfall amounts for major locations in Colorado (for example, Greeley, Fort Morgan, Lamar, etc.) have been calculated by the United States Department of Agriculture, Natural Resources Conservation Service. Use of these values is acceptable for the purposes of this permit where the data is for an official weather station that is located within 75 miles of the subject AFO or CAFO.